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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/054,084	01/22/2002	Jeffrey P. Fugere	BRD-0002CIP2	4071

7590 06/17/2003

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EXAMINER

HWU, DAVIS D

ART UNIT	PAPER NUMBER
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3752

DATE MAILED: 06/17/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Applicant N .

10/054,084

Applicant(s)

FUGERE, JEFFREY P.

Examiner

Davis Hwu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 April 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-61 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 56-61 is/are allowed.
- 6) ☒ Claim(s) 1 and 4-55 is/are rejected.
- 7) ☒ Claim(s) 2 and 3 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____. 6) ☐ Other: _____

R s p o n s t o A m e n d m e n t

1. Applicant's amendment and formal drawings of April 16, 2003 are acknowledged and entered as papers number 7 and 8.
2. Applicant's amendment has been fully considered. Applicant's remarks have been fully considered, however, they are moot in view of the new grounds of rejection.
3. All of the appropriate 35 USC paragraphs can be found in the office action of December 11, 2002 and will not be repeated herein.

Claim Rejections - 35 USC § 103

4. Claims 1, 7-24, 25, 29-42, and 43-55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Agent et al. in view of Baran et al.

The patent to Agent et al. discloses a system comprising:

- a fluid dispensing pump in housing 62;
- a position controller 116 for controlling the position of the pump relative to a cup 13, the position controller generating a time-duration-based pump control signal (Column 12, lines 53-56);
- a dispensing controller for controlling a dispensing operation of the pump, the dispensing controller receiving the time-duration-based pump control signal generating an index signal for the motor for controlling the pump (Column 12, lines 47-56).

Agent et al. do not disclose the pump having a feed screw driven by a motor having indexed rotational positions. The patent to Baran et al. teaches a dispensing controller for a fluid dispensing pump including a feed screw 24 driven by a motor, the dispensing

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controller for controlling a dispensing operation of a pump and initiating the dispensing operation in response to a pump control signal. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the device of Agent et al. by replacing the pump of Agent et al. by a pump having a feed screw driven by a motor as taught by Baran et al. since such arrangements are known in the art and the device of Agent et al. would function properly with such arrangements.

5. Claims 4-6, 26-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Agent et al. in view of Baran et al. as applied to claim 1 above, and further in view of Cline et al.

The patents to Agent et al. and Baran et al. disclose the instant invention except for a closed-loop servomotor. The patent to Cline et al. teaches a dispensing controller comprising a closed-loop servomotor having indexed rotational positions for accurately controlling the dispensing operation. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the device of Agent et al. and Baran et al. by replacing the motor with a motor having indexed rotational positions comprising a time-duration-based signal and the count signal as taught by Cline et al. in order to provide an accurate dispensing amount. Since the servomotor controls the feed screw, there exists a transmission between the servomotor and the feed screw as recited in claim 5 and the positional encoder recited in claim 6 is provided by the indexing capability of Cline et al.

Allowable Subject Matter

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5. Claims 2 and 3 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. Claims 56-61 are allowed.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Davis Hwu whose telephone number is 703-305-1663. The examiner can normally be reached on M-F 7:30 AM to 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Y. Mar can be reached on (703)308-2087. The fax phone numbers

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for the organization where this application or proceeding is assigned are (703)872-9302 for regular communications and (703)872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0861.

A handwritten signature in black ink, appearing to be 'Dh' followed by a horizontal line.

Davis Hwu
June 13, 2003